

MARK R. CONRAD (CA Bar No. 255667)  
WILLIAM J. COOPER (CA Bar No. 304524)  
COURTNEY C. AASEN (CA Bar No. 307404)

**CONRAD & METLITZKY LLP**

Four Embarcadero Center, Suite 1400

San Francisco, CA 94111

Tel: (415) 343-7100

Fax: (415) 343-7101

Email: mconrad@conradmetlitzky.com

Email: wcooper@conradmetlitzky.com

Email: caasen@conradmetlitzky.com

LINDSAY L. RODMAN (*pro hac vice* forthcoming)

**IRAQ AND AFGHANISTAN VETERANS OF AMERICA**

85 Broad Street

New York, NY 10004

212-982-9699

lindsay@iava.org

*Attorneys for Iraq and Afghanistan Veterans of America*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

SIERRA CLUB and SOUTHERN BORDER  
COMMUNITIES COALITION,

*Plaintiffs,*

v.

DONALD J. TRUMP, President of the United  
States, in his official capacity; MARK T.  
ESPER, Secretary of Defense, in his official  
capacity; and STEVEN MNUCHIN, Secretary  
of the Treasury in his official capacity,

*Defendants.*

CASE NO. 4:19-cv-00892-HSG

CONSENT MOTION FOR LEAVE TO FILE BRIEF  
OF IRAQ AND AFGHANISTAN VETERANS OF  
AMERICA AS *AMICUS CURIAE* IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PARTIAL  
SUMMARY JUDGMENT

Summary Judgment Hearing: Nov. 20, 2019  
Time: 10:00 a.m.

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD

2 Iraq and Afghanistan Veterans of America hereby moves for permission to file an *amicus curiae*  
3 brief in support of Plaintiffs’ motion for summary judgment. Counsel for Plaintiffs and Defendants have  
4 consented to the filing of this brief. A copy of the proposed brief and a proposed order are attached to  
5 this motion.

### 6 STATEMENT OF INTEREST

7 Iraq and Afghanistan Veterans of America (“IAVA”) submits this brief as *amicus* on behalf of  
8 Plaintiffs. IAVA is the leading non-profit devoted to the interests of the post-9/11 generation of  
9 veterans, with 425,000 members comprising mostly veterans of the wars in Iraq and Afghanistan,  
10 including service members still on active duty. IAVA’s membership also includes military spouses and  
11 dependents, and veterans who served domestically or during other conflicts.

12 IAVA’s membership is diverse and represents the full spectrum of political persuasions. IAVA  
13 will not opine about the merits of the national policy to build a border wall, the existence of a national  
14 emergency, or the constitutionality of the President’s declaration. Instead, IAVA writes to provide its  
15 unique perspective on the impact of the President’s decision to divert funding from much-needed  
16 military construction projects. This decision will endanger the wellbeing of currently serving military  
17 members and their families and diminish their quality of life. For that reason, IAVA opposes the  
18 diversion of military construction funding to the border.

### 19 ARGUMENT

20 District courts have broad discretion to accept *amicus* briefs and “have ‘exercised great  
21 liberality’” in doing so. *Cal. ex rel. Becerra v. U.S. Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1164  
22 (N.D. Cal. 2019) (quoting *Woodfin Suite Hotels, LLC v. City of Emeryville*, No. C 06-1254 SBA, 2007  
23 WL 81911, at \*3 (N.D. Cal. Jan. 9, 2007)). *Amicus* briefs from parties concerning “issues that have  
24 potential ramifications beyond the parties involved,” or that offer “unique information or perspective  
25 that can help the court beyond the help that the lawyers for the parties are able to provide,” are  
26 particularly “welcome.” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061,  
27 1067 (N.D. Cal. 2005). A group that wishes to appear as an *amicus* need not establish any “strict  
28

prerequisites,” but instead “merely make a showing that [its] participation is useful or otherwise desirable.” *Cal ex. rel. Becerra*, 381 F. Supp. 3d at 1164.

Here, this Court would benefit from hearing IAVA’s unique perspective on how the planned diversion of military construction funds to build a border wall will impact active-duty servicemembers and military families. That perspective gives context for the consequences of this Court’s rulings on the legal questions at issue. The parties are not in a position to explain the consequences for servicemembers or their families—and those harms to Americans who have already sacrificed so much for their country should not be ignored. IAVA participated as *amicus* in a different case involving the planned diversion of funds but before the announcement of specific projects slated to be deferred. *See* Brief of Iraq and Afghanistan Veterans of America as *Amicus Curiae*, *El Paso County v. Donald J. Trump*, No. 3:19-cv-66-DB (W.D. Tex. filed May 3, 2019), ECF 61-1. Now that those projects have been announced, and the consequences for the military made concrete, IAVA’s perspective will be all the more helpful to this Court.

### CONCLUSION

The Court should grant leave for IAVA to file the attached brief as *amicus curiae*.

DATED: October 21, 2019

Respectfully submitted,

IRAQ AND AFGHANISTAN VETERANS OF  
AMERICA

/s/ Lindsay L. Rodman

LINDSAY L. RODMAN\*

\**pro hac vice* forthcoming

Attorney for *Amicus Curiae* IAVA

CONRAD & METLITZKY LLP

/s/ Mark R. Conrad

MARK R. CONRAD

WILLIAM J. COOPER

COURTNEY C. AASEN

Local Counsel for *Amicus Curiae* IAVA

**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2019, I caused the foregoing document to be filed via the CM/ECF system for the U.S. District Court for the Northern District of California, causing it to be served on all counsel of record.

Dated: October 21, 2019

/s/ Mark R. Conrad  
Mark R. Conrad